

REMARKS

In the Office Action, restriction was required between the following groups of claims:

Group I - Claims 1-20, drawn to a method of treating functional somatic syndromes; and

Group II - Claims 21-28, drawn to a method for diagnosing a sleep disorder.

As indicated, Applicant elects claims 1-20 for further prosecution in this application. This restriction is respectfully traversed for the following reasons. While the Examiner's statement in the Office Action is true that independent claim 21 does not recite a treatment aspect of treating sleep disordered breathing in a patient, this claim does recite determining whether a patient suffers from one or more symptoms of a functional somatic syndrome. Independent claim 1, included in elected Group I, includes a generally analogous step of identifying a patient as having a functional somatic syndrome. To perform an adequate search of this feature set forth in independent claim 1 relating to identifying a patient as having a functional somatic syndrome, such a search will likely encompass the indicated step recited in independent claim 21 of determining whether a patient suffers from one or more symptoms of a functional somatic syndrome. The foregoing method steps recited in independent claims 1 and 21 will necessarily go hand-in-hand when the Examiner's search is performed. Accordingly, it is respectfully submitted that it would not place an undue burden on the Examiner to maintain the claims of Group II, claims 21-28, with the claims of Group I, claims 1-20, due to the synergy present between independent claims 1 and 21. Moreover, this will also result in the most efficient prosecution of the present application for the Examiner and the Applicant.

Applicant further notes that claims 22 and 23 of Group II include search terms similar to that set forth in claims 8-10 of Group I, (e.g., alpha-delta sleep and upper airway resistance syndrome (UARS) and obstructive sleep apnea/hypopnea (OSA/H)), so a search for the specific features set forth in claims 8-10 will likely encompass the similar

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features set forth in claims 22 and 23. Additionally, dependent claims 24-28 of Group II relate to methods and apparatus for treating a patient with sleep disordered breathing, and are generally analogous to claim 1 (second recited method step) and claims 3-6 of Group I, respectively. Accordingly, there would be no additional burden on the Examiner by maintaining dependent claims 24-28 in the application with generally analogous claims 1 (second recited method step) and 3-6.

In the August 16, 2005 Office Action, there was also a species requirement in both Groups I and II relating to the claimed airway stabilization technique. In elected Group I, the species election is indicated by the Examiner as being between mechanical stabilization (claims 2, 3, and 13, 14) and positive airway pressure therapy (claims 4, 5 and 15, 16). As indicated previously, Applicant has elected the positive airway pressure therapy species for further prosecution in this application. The Examiner indicates on page 3 of the Office Action that no claims are considered generic. Applicant respectfully traverses the Examiner's conclusion, as independent claims 1 and 12 in Group I are presently generic to both species, each generally reciting "an airway stabilization technique" which clearly encompasses both positive airway pressure therapy and mechanical stabilization. In addition to independent claims 1 and 12, the following dependent claims are believed to be readable on the elected species (e.g., positive airway pressure therapy): claims 4-11 and 15-20. As indicated Applicant believes claims 1, 6-12, and 17-20 are generic claims.

As a complete search for the subject matter of independent claims 1 and 12 (e.g., "an airway stabilization technique") will likely encompass both mechanical stabilization and positive airway pressure therapy, it is respectfully submitted that maintaining both species in this application would not place an undue burden on the Examiner and expedite prosecution of this application. Accordingly, the Examiner is respectfully requested to maintain both species in this application and examine these species concurrently.

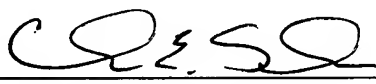
In view of the foregoing, Applicant respectfully requests examination of the claims of Group I, claims 1-20, and at least claims 4-11 and 15-20 readable on the elected species (e.g., positive airway pressure therapy). Applicant reserves the right to

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file a divisional application on the non-elected claims of Group II, claims 21-28, and the non-elected species claims, namely claims 2, 13, and 14, should the Examiner maintain the restriction requirement in the next Office Action.

Respectfully submitted,

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